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ONLY)

Attorneys for Plaintiff and Defendant in
Intervention
INTERSTATE FIRE & CASUALTY COMPANY,
an Illinois corporation,

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

INTERSTATE FIRE & CASUALTY
COMPANY, an Illinois corporation,

Plaintiff,

v.

PACIFIC EMPLOYERS INSURANCE
COMPANY, a Pennsylvania
corporation,

Defendant.

Case No. EDCV06-0593 VAP (OPx)

**PLAINTIFF INTERSTATE FIRE &
CASUALTY COMPANY'S
RESPONSE TO REPUBLIC
WESTERN INSURANCE
COMPANY'S APPLICATION TO
TAX COSTS**

Complaint Filed: June 6, 2006

Trial Date: None

Judge: Hon. Virginia A. Phillips

Date: February 29, 2008

REPUBLIC WESTERN INSURANCE
COMPANY, an Arizona corporation,

Plaintiff in
Intervention,

v.

INTERSTATE FIRE & CASUALTY
COMPANY, an Illinois corporation;
PACIFIC EMPLOYERS INSURANCE
COMPANY, a Pennsylvania
corporation,

Defendants in
Intervention.

1 Plaintiff and Defendant in Intervention INTERSTATE FIRE & CASUALTY
 2 COMPANY ("INTERSTATE") hereby submits the following response to Plaintiff
 3 in Intervention REPUBLIC WESTERN INSURANCE COMPANY'S ("RWIC")
 4 Application to the Clerk to Tax Costs filed February 12, 2007.

5 **I. INTRODUCTION**

6 The Court entered judgment in favor of RWIC on February 2, 2008 in the
 7 amount of \$350,000 plus \$52,920.00 in interest. Subsequently, on February 12,
 8 2008, RWIC filed its application to tax costs in the amount of \$4,689.73. On
 9 February 14, 2008, INTERSTATE filed motions to vacate the judgment in favor of
 10 RWIC and enforce a settlement agreement between the two parties. Those motions
 11 are set to be heard on March 10, 2008. As set forth below, INTERSTATE responds
 12 to RWIC's application to tax costs and requests that the clerk delay taxing costs
 13 until after the Court has heard INTERSTATE's motions to vacate the judgment and
 14 enforce the settlement.

15 **II. RESPONSE**

16 INTERSTATE has no objection to the costs claimed by RWIC. However, in
 17 light of the motions to vacate the judgment and enforce the settlement agreement
 18 set for hearing on March 10, 2008, INTERSTATE requests that the Court, under its
 19 inherent authority, exercise its discretion to simply wait until after those motions
 20 have been resolved to tax costs. Such a delay would ensure that the judgment
 21 entered is in fact final prior to any costs being taxed, it would prevent any potential
 22 confusion resulting from costs being added to the judgment while a motion
 23 contesting the validity of that judgment is pending, and would do no harm to
 24 RWIC, the party applying to the Clerk for a taxation of costs.

25 **III. CONCLUSION**

26 For the reasons stated above, INTERSTATE hereby requests that the Clerk

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1 delay taxing costs until after the pending motions to vacate the judgment and
2 enforce the settlement agreement have been resolved.

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4 Dated: February 22, 2008 McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

5
6 By: /s/ Paul J. Whitfield

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INTERSTATE FIRE & CASUALTY
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